

BEFORE THE JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A  
JUDGE, NO. 00-143

Supreme Court Case No.:

**FILED**  
THOMAS D. HALL

**OCT 26 2000**

CLERK, SUPREME COURT  
BY \_\_\_\_\_

**NOTICE OF FORMAL CHARGES**

TO: The Honorable Cynthia A. Holloway  
Circuit Judge  
Thirteenth Judicial Circuit  
Hillsborough County Courthouse  
419 Pierce Street  
Tampa, Florida 33602-4022

YOU ARE HEREBY NOTIFIED THAT the Investigative Panel of The Florida Judicial Qualifications Commission, by a vote of at least five members at its meeting held in Tampa, Florida on October 13, 2000, has determined, pursuant to Rule 6 of the Rules of the Florida Judicial Qualifications Commission, as revised, and Article V, Section 12(b) of the Constitution of Florida, that probable cause exists for formal proceedings to be instituted against you.

Formal proceedings accordingly are hereby instituted to inquire into the following charges:

1. You were a witness in the case of Adair v. Johnson, No. 97-11697, Circuit Court of Hillsborough County ("the Adair case"), and a friend of Ms. Robin Adair, the petitioner in that case, and members of her family. This Adair case involved the custody of Parker, a minor child of Robin Adair, petitioner, and Mark Johnson, respondent. During the pendency of this case you abused your powers as a judge, and improperly utilized the prestige of your office by the following actions:

- a. On or about February 24, 2000, you telephoned Detective John Yaratch of the Tampa Police Department, who was then conducting a criminal investigation involving the parties in the Adair case, and sought to influence his investigation, inter alia, by suggesting that an interview of the daughter of the parties be held at the Child Advocacy Center, by furnishing Mr. Yaratch with your cellular phone number, and by requesting that he keep you apprised of developments in the case. In accordance with your request, Detective Yaratch telephoned you on or about March 3, 2000, and discussed his findings, at which time you evidenced your displeasure with his conclusions.
- b. On or about the afternoon of Friday, March 3, 2000, you entered the hearing room of the Honorable Ralph C. Stoddard, presiding judge in the Adair case, and spoke to Judge Stoddard about the case in the presence of others in a loud, angry, and temperamental manner and shook your finger at the judge. Among other things, you criticized the time it took for the parties in the Adair case to obtain an emergency hearing in Judge Stoddard's division, criticized Judge Stoddard's leaving the daughter of the parties in the custody of a third party, stated it would concern you if the respondent father obtained custody of the child, insisted or demanded that Judge Stoddard hold an early hearing in the matter, and falsely suggested that the attorney for the respondent father in

the case had a "hold" on Judge Stoddard. In a further attempt to influence Judge Stoddard's decision in the case, you made a comment about "the two people in the world dearest to me", (which Judge Stoddard interpreted to mean the petitioner and her daughter) and stated that the petitioner was a good mother who was protective of her child. This ex parte contact contributed to Judge Stoddard's recusal in the case on the morning of Monday, March 6, 2000.

2. On or about July 19, 2000, in Tampa, Florida, you were deposed in the Adair case by the respondent acting pro se. You were represented by your husband, Todd Alley, Esq. and your brother James T. Holloway, Esq. and Ms. Adair was represented by her counsel. Upon being duly sworn you testified, inter alia, as follows:

Q. [By Respondent] Have you or anyone in your office ever contacted law enforcement about this case?

A. Yes.

Q. Who and when, if you can recall?

A. I think just to determine who was going to investigate the most recent allegation, just to find out the name of the detective attached to the file.

Q. Did you ever speak to the detective?

A. I've spoken to the detective a lot, but not necessarily about this case. I don't really recall whether I spoke to him directly or not. I don't believe that I did.

This testimony as initially given was false or misleading because you had in fact contacted Detective Yaratch as set forth in paragraph 1(a), above. You subsequently executed an errata sheet described in paragraph 4a.

3. In the same deposition described in paragraph 2 above, you further testified as follows:

Q. [By Respondent] When did you learn that Parker [the daughter of the petitioner and respondent] had been sheltered?

A. On a Saturday morning [Saturday, February 26, 2000]. I don't really recall the date or the time. I was at the baseball field, I think, or softball field.

Q. Did Cindy Tigert [sister of the petitioner] call you?

A. Yes.

Q. What was your reaction?

A. I was shocked.

Q. Did you do anything in response to that development in the case?

A. I don't recall being able to do anything at that point.

Q. Did you contact Ralph Stoddard?

A. No.

Q. Did you telephone him, contact him in any way?

A. No.

Q. Did you go see him?

A. No. (emphasis supplied)

This testimony as initially given was false or misleading in that you in fact did contact and speak with Judge Stoddard concerning the Adair case as set forth in paragraph 1(b), above. You subsequently executed an errata sheet described in paragraph 4a.

- 4a. On or immediately before August 8, 2000, you executed an errata sheet to your deposition described in paragraphs 2 and 3 above, stating in pertinent part as follows:

Page 35, Line 19 – [the testimony quoted in paragraph 2 above] --

This deposition was taken after I had spent three hours at the funeral of Harry Lee Coe. Upon further reflection, I do recall a brief telephone conversation with Detective Yaratch. During this conversation, I informed Detective Yaratch that I did not want to discuss the facts of this investigation but hoped that the investigation would be handled in a timely fashion.

Page 38, Line 22 through Page 39, Line 15 – [the testimony quoted in paragraph 3 above] -- My responses to these questions relate to the Saturday [February 26, 2000] of the emergency shelter hearing referenced on Page 38, Line 24.

- 4b. Despite these purported corrections, your testimony relating to your conversation with Detective Yaratch remained incomplete and misleading because your testimony as corrected was not a truthful or complete account of your conversations with Detective Yaratch.

- 4c. The corrections further are false, incomplete, or misleading with regard to your contact with Judge Stoddard because they do not respond fully and accurately to the questions propounded to you, namely, (a) "Did you do anything in response to that development in the case?"; (b) "Did you contact Judge Stoddard?"; (c) "Did you telephone him, contact him in any way?"; and, (d) "Did you go see him?". These questions were not restricted to any specific date and required you to disclose the contact with Judge Stoddard described in paragraph 1(b), above, and you failed to do so. You have admitted to the Investigative Panel at the Rule 6b hearing on October 13, 2000, that it was your intention not to disclose or confirm to Mr. Johnson your visit with Judge Stoddard on March 3, 2000, and your testimony and the purported changes collectively served that purpose.

The acts described above, if they occurred as alleged, were in violation of Canons 1, 2, 3, and 5 of the Code of Judicial Conduct. These acts, if they occurred as alleged, would further impair the confidence of the citizens of this state in the integrity of the judicial system and in you as a judge, would constitute conduct unbecoming a member of the judiciary, could demonstrate your present unfitness to hold the office of judge, and could warrant discipline, including removal from office, and discipline as an attorney.

PLEASE TAKE NOTICE in accordance with the provisions of the Rules of the Florida Judicial Qualifications Commission, as revised, that you have twenty (20) days following service of this notice to file a written answer to these charges.

Dated this 26<sup>th</sup> day of October, 2000.

INVESTIGATIVE PANEL OF THE  
FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

By: Thomas C. MacDonald, Jr.  
Thomas C. MacDonald, Jr.  
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General Counsel for the Florida  
Judicial Qualifications Commission

**Certificate of Service**

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Formal Proceedings has been furnished by **certified mail #Z 243 667 268, return receipt requested**, to the Honorable Cynthia A. Holloway, Circuit Judge, Thirteenth Judicial Circuit, Hillsborough County Courthouse, 419 Pierce Street, Tampa, Florida 33602-4022 and via <sup>Hand Delivery</sup> ~~Hand Delivery~~ to Scott K. Tozian, Esq., Smith & Tozian, P.A., 109 N. Brush Street, Suite 150, Tampa, FL 33602-4159 on this 26<sup>th</sup> day of October, 2000.

Thomas C. MacDonald, Jr.  
Attorney